

**THE COMMISSION'S SUBJECT MATTER JURISDICTION TO ADMINISTER THE
TITLE II UNIVERSAL SERVICE PROGRAM UNDER THE TEXT OF §§ 214(e) AND 254**

(WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337,
CC Docket No. 01-92, CC Docket No. 96-45, and WC Docket No. 03-109)

**CELLULAR SOUTH, INC.
AUGUST 30, 2011**

TELECOMMUNICATIONS ACT OF 1996

TITLE I – TELECOMMUNICATIONS SERVICES

SUBTITLE A – TELECOMMUNICATIONS SERVICES

§ 101. ESTABLISHMENT OF PART II OF TITLE II.

(a) AMENDMENT. — Title II is amended by inserting after section 229 (47 U.S.C. 229) the following new part:

“PART II — DEVELOPMENT OF COMPETITIVE MARKETS

- “§ 251. Interconnection.
- “§ 252. Procedures for negotiation, arbitration, and approval of agreements.
- “§ 253. Removal of barriers to entry.
- “§ 254. Universal service.
- “§ 255. Access by persons with disabilities.
- “§ 256. Coordination for interconnectivity.
- “§ 257. Market entry barriers proceeding.
- “§ 258. Illegal changes in subscriber carrier selections.
- “§ 259. Infrastructure sharing.
- “§ 260. Provision of telemessaging service.
- “§ 261. Effect on other requirements.”

(b). DESIGNATION OF PART I.— Title II of the Act is further amended by inserting before the heading of section 201 the following new heading:

“PART I—COMMON CARRIER REGULATION”

- § 102. Eligible telecommunications carriers.
- § 103. Exempt telecommunications companies.
- § 104. Nondiscrimination principle.

CHAPTER 5—WIRE OR RADIO COMMUNICATION

SUBCHAPTER II—COMMON CARRIERS

PART I—COMMON CARRIER REGULATION

- § 214. Extension of lines or discontinuance of service; certificate of public convenience and necessity.
- § 214(e). Provision of universal service.

PART II—DEVELOPMENT OF COMPETITIVE MARKETS

- § 251. Interconnection.
- § 252. Procedures for negotiation, arbitration, and approval of Agreements.
- § 253. Removal of barriers to entry.
- § 254. Universal service.
- § 255. Access by persons with disabilities.
- § 256. Coordination for interconnectivity.
- § 257. Market entry barriers proceeding.
- § 258. Illegal changes in subscriber carrier selections.
- § 259. Infrastructure sharing.
- § 260. Provision of telemessaging service.
- § 261. Effect on other requirements.

SECTION 214

(e) Provision of universal service

(1) Eligible telecommunications carriers

A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received—

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.

SECTION 254

(e) Universal service support

After the date on which Commission regulations implementing this section take effect, only an eligible telecommunications carrier designated under section 214(e) of this title shall be eligible to receive specific Federal universal service support. A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support should be explicit and sufficient to achieve the purposes of this section.

(b) Universal service principles

The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

* * * * *

(2) Access to advanced services

Access to advanced telecommunications and information services should be provided in all regions of the Nation.

(3) Access in rural and high cost areas

Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

* * * * *

(6) Access to advanced telecommunications services for schools, health care, and libraries

Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services as described in subsection (h) of this section.

(c) Definition

(1) In general

Universal service is an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services. The Joint Board in recommending, and the Commission in establishing, the definition of the services that are supported by Federal universal service support mechanisms shall consider the extent to which such telecommunications services—

(A) are essential to education, public health, or public safety;

(B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

(C) are being deployed in public telecommunications networks by telecommunications carriers; and

(D) are consistent with the public interest, convenience, and necessity.

(2) Alterations and modifications

The Joint Board may, from time to time, recommend to the Commission modifications in the definition of the services that are supported by Federal universal service support mechanisms..

(3) Special services

In addition to the services included in the definition of universal service under paragraph (1), the Commission may designate additional services for such support mechanisms for schools, libraries, and health care providers for the purposes of subsection (h) of this section.

(h) Telecommunications services for certain providers

(1) In general

(B) Educational providers and libraries

All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3) of this section, provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties.

* * * * *

(2) Advanced services

The Commission shall establish competitively neutral rules—

(A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries; and

(B) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users.

(3) Terms and conditions

Telecommunications services and network capacity provided to a public institutional telecommunications user under this subsection may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value.

(b) Universal service principles

The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

* * * * *

(6) Access to advanced telecommunications services for schools, health care, and libraries

Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services as described in subsection (h) of this section.

(c) Definition

* * * * *

(3) Special services

In addition to the services included in the definition of universal service under paragraph (1), the Commission may designate additional services for such support mechanisms for schools, libraries, and health care providers for the purposes of subsection (h) of this section.

* * * * *

(h) Telecommunications services for certain providers

(1) In general

(B) Educational providers and libraries

All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3) of this section, provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties.

* * * * *

(2) Advanced services

The Commission shall establish competitively neutral rules—

(A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries; and

(B) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users.

(3) Terms and conditions

Telecommunications services and network capacity provided to a public institutional telecommunications user under this subsection may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value.

(h) Telecommunications services for certain providers

* * * * *

(2) Advanced services

The Commission shall establish competitively neutral rules—

(A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries; and

(B) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users.

(3) Terms and conditions

Telecommunications services and network capacity provided to a public institutional telecommunications user under this subsection may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value.

SUBSECTIONS 254(h)(2) & 254(h)(3)

“The Commission shall establish competitively neutral rules”¹ defining “the circumstances under which a telecommunications carrier may be required”² to provide the “[t]elecommunications services and network capacity”³ necessary “to connect its network to ... public institutional telecommunications users”⁴ in order “to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries.”⁵

¹ § 254(h)(2).

² § 254(h)(2)(B).

³ § 254(h)(3).

⁴ § 254(h)(2)(B).

⁵ § 254(h)(2)(A).